

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:09-cv-216-RJC**

**JACOB BRIAN CRAIN,**

**Petitioner,**

**v.**

**ALVIN KELLER,**

**Respondent.**

**ORDER**

On September 30, 2011, the Court dismissed Crain's § 2254 petition. (Doc. No. 9). It also ordered the clerk to amend the caption of the case to reflect Mr. Alvin Keller as the Respondent in this matter. (Id.). Finally, the Court ordered the United States Marshal to serve Keller with Petitioner's complaint, summons, and a copy of the Court's Order. (Id.). But Rule 4 of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254, provides that "[i]n every case, the clerk must serve a copy of the petition and any order on the respondent and on the attorney general or other appropriate officer of the state involved." Therefore, the Court vacates that part of its September 30, 2011 Order which commanded the United States Marshal to serve Keller. (Doc. No. 9 at 6, 17). Instead, the Court orders the clerk to serve Keller with Petitioner's complaint, (Doc. No. 1), and copies of all court orders.

Signed: October 7, 2011



Robert J. Conrad, Jr.  
Chief United States District Judge

